

**MINUTES OF THE
POLITICAL SUBDIVISIONS INTERIM COMMITTEE**

Wednesday, June 19, 2013 – 9:00 a.m. – Room 25 House
Building

Members Present:

Sen. Daniel W. Thatcher, Senate
Chair Rep. R. Curt Webb, House
Chair Sen. Wayne A. Harper Sen.
Karen Mayne Sen. Aaron Osmond
Rep. Jerry B. Anderson Rep. Joel
K. Briscoe Rep. Spencer J. Cox
Rep. Richard A. Greenwood Rep.
Craig Hall Rep. Kay L. McIlff
Rep. Jeremy
A. Peterson
Rep.
Jennifer M.
Seelig Rep.
Earl D.

Tanner

Members Absent:

President Wayne L.
Niederhauser Rep.
Melvin R. Brown

Staff Present:

Mr. Joseph T. Wade, Policy
Analyst Ms. Victoria Ashby,
Associate General Counsel Ms.
Samantha Coombs, Legislative
Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Committee Business

Chair Webb called the meeting to order at 9:06 a.m.

MOTION: Sen. Osmond moved to approve the minutes of the May 15, 2013, meeting. The motion passed unanimously with Sen. Harper, Rep. Briscoe, and Rep. McIlff absent for the vote.

Sen. Mayne explained that in addition to being a member of the Political Subdivisions Interim Committee, she is a member of the Business and Labor Interim Committee, which also meets at 9:00 a.m. She explained that her coming and going during the interim meetings will be because she is participating in both committees.

2. References to General Fund in the Code

Ms. Ashby explained the need for technical changes in the code to create consistency pertaining to the use of "general fund," specifically in reference to municipal and county governments. She said that currently there is no definition for the term "general fund" in municipal code, and capitalization of the term is inconsistent.

Mr. Lincoln Shurtz, Director, Legislative Affairs, Utah League of Cities and Towns, stated that the league is willing to work with staff and the committee to ensure that there are no unintended consequences when defining the term "general fund" in the municipal section of the code.

MOTION: Rep. Tanner moved that the committee open a bill file for the purpose of standardizing the use of "general fund" in the municipal and county sections of the code. The motion passed unanimously with Rep. Seelig absent for the vote.

3. Purpose of Assessment Areas

Ms. Ashby presented to the committee the history of assessment areas in Utah. She reviewed the documents included in the mailing packet pertaining to the history of assessment areas, as well as the process for designating an assessment area. Ms. Ashby explained that the term "assessment" is currently not defined in the code.

Chair Webb explained that an assessment area can be used as a financing tool and potentially may be used when a different alternative should be used. He clarified that the purpose for discussing assessment areas was for the committee to determine the purpose, structure, and scope for the use of assessment areas.

Rep. Tanner asked for clarification regarding the differences between special service districts, local districts, and assessment areas.

Ms. Ashby clarified that a special service district is a political entity created by a local entity, which has taxing authority. She continued that an assessment area is not an entity and does not have taxing authority.

Mr. Wade provided clarification on the differences between special service districts, local districts, and assessment areas. He explained that the purpose for creating an assessment area is to get around the constitutional provision of "uniform and equal" that would be required if a tax were to be imposed.

Mr. Royce Van Tassell, Utah Taxpayers Association, provided an example of how an assessment area could be used for a purpose other than its intended purpose.

Mr. Shurtz explained that an assessment area is a financing tool used by local governments to provide enhanced benefits to select groups within the community that are willing to pay for the benefit. Mr. Shurtz said there are concerns that local districts are using an assessment area to finance general benefits to the community as a whole rather than using it to finance enhancement benefits for select areas within the community. He provided another example of how a local government could use an assessment area to finance a general service or benefit, such as water infrastructure, which is built outside of the assessment area yet services the assessment area.

Mr. Brent Gardner, Executive Director, Utah Association of Counties, said that assessment areas are a useful and effective tool for the counties, and he emphasized that the use of assessment areas reduces the number of special service districts and local districts that would need to be created in order for counties to provide services.

Mr. Gary Williams, Ogden City Attorney, illustrated the differences between an assessment area, local district, and special service district. Mr. Williams explained that an assessment area does not have a separate governing body but is a financing tool used by an existing governing body. He continued by stating that a local entity using an assessment area is required to show that there is a benefit being provided as a result of the assessment, whereas special service districts and local districts are given taxing authority but do not have to show that improvements

have been made. He concluded that extra revenue received as a result of the assessment must be returned to the citizens assessed, whereas extra funds collected by taxes can be applied towards other projects.

Mr. Robert Wall, South Jordan City Attorney, spoke in support of assessment areas as useful tools for local communities.

4. Assessment Area Protest Requirements

Chair Webb provided a history for the discussion surrounding the adequate protest requirements for assessment areas.

Ms. Ashby reviewed the definition of adequate protests for an assessment area and referred to the handout "Title 11, Chapter 42, Assessment Area Act: Select Terms and Provisions" that was included in the mailing packet.

Mr. Shurtz emphasized that in a protest it is not one-man-one-vote, but rather the vote is based on the proportion of the benefit by the land owner.

Mr. Gardner said there are concerns about lowering the protest requirement threshold for an assessment area from 50%, specifically in regards to the renewal of an assessment area. He provided an example which illustrated the concern.

Mr. Stephen Capson, Councilman, Wasatch County, presented the committee with an example of an assessment area protest in Wasatch County relating to fire services. Mr. Capson said that the protest failed because it did not meet the 50% threshold, but only by a very small percentage. He continued that had the protest threshold been lower than 50%, the protest would have succeeded.

Mr. Williams said that the policy of providing for a 50% protest requirement is an anomaly. He stated that because most of the governing boards are comprised of elected officials and can be held accountable by their constituents, the 50% threshold is not too high.

Mr. Oliverson, resident, Wasatch County, spoke in favor of lowering the 50% protest threshold to make it consistent with the 25% threshold requirement for local districts and special service districts. Mr. Williams referred to Mr. Capson's example and explained that it is difficult to reach the 50% threshold, because most of the residents in that assessment area are second homeowners and may only live in the area half the year.

The committee discussed the concerns presented by Mr. Capson and Mr. Oliverson regarding the assessment area in Wasatch County.

Chair Webb said he was interested in knowing how many assessment area protests throughout the state have failed, and if so, by what percentage. He explained that data is needed for members of the committee to make an informed decision about whether or not to lower the protest threshold.

5. Schedule for Discussing Eminent Domain Issues

Chair Webb explained that the committee has been tasked by the Legislative Management Committee to study various topics regarding eminent domain. He explained that a letter had

been drafted outlining recommended eminent domain concerns for the committee's study during the interim. He summarized the topics to discuss, which included licensed agents, negotiation procedures, physical occupation of property without negotiation or court order, and defining condemning entity.

MOTION: Rep. Peterson moved that the committee issue the prepared letter to parties interested in eminent domain issues. The motion passed unanimously with Sen. Harper and Sen. Mayne absent for the vote.

6. Other Items/Adjourn

MOTION: Rep. Greenwood moved to adjourn the meeting. The motion passed unanimously with Sen. Harper and Sen. Mayne absent for the vote.

Chair Webb adjourned the meeting at 10:56 a.m.